

REMARKS

Claims 1-10 remain in the application; claims 11-26 are withdrawn from consideration.

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Non-Final Office Action dated July 16, 2003 has been received and its contents carefully reviewed.

Applicant thanks the Examiner for approving the drawings filed on February 21, 2001.

In the Office Action, claims 1-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,055,899 to Wakai, et al. (hereinafter "Wakai"). Applicant amends claim 1 to explicitly recite a feature of the invention which Applicant believes was implicit in the original claim. Therefore, this amendment does not subject claim 1 to any estoppel.

Claims 11-26 have been withdrawn from further consideration in this application after the election of species of July 2, 2003 (Paper No. 7).

The rejection of claims 1-10 is respectfully traversed and reconsideration is requested. Claims 1-10 are allowable over the cited references in that each of these claims recites the combination of elements in claim 1 including, for example "a second insulating layer on the third conductive layer, the second insulating having a contact hole exposing a portion of the third conductive layer" and "a fourth conductive layer at least a portion of which is on top of and in contact with the second insulating layer and electrically contacting the third conductive layer". None of the cited references, including Wakai, singly or in combination, teaches or suggests at least this feature of the claimed invention.

The structure of claim 1 of the present invention is different from the structure of Wakai in that Wakai does not disclose or suggest "the second insulating layer having a

contact hole” or “a fourth conductive layer on the second insulating layer and electrically contacting the third conductive layer”.

The Examiner alleges that Applicant’s Fig. 2 “lacks depiction of a conventional hole” and therefore this feature should be canceled from the claim. Furthermore, the Examiner construes the term “hole” to mean “a protrusion or filler”. The Examiner identifies as the hole a region circled in a copy of Fig. 2 in the Office Action where layer 48 extends down through other layers to make surface contact with layer 40. Applicant respectfully rejects this construction of the term “hole” as being contrary to its ordinary meaning, and submits that perhaps the Examiner has inadvertently misinterpreted the claim and Fig. 2. Fig. 2 clearly shows a hole in the insulating film 48 that exposes the electrode 46. Contact layer 50 is located in this hole in the film 48. Therefore, Fig. 2 clearly shows this feature of the claim, and no narrow or unusual interpretation of the term hole is required.

The Examiner further alleges that Wakai discloses the second insulating layer as reference numbered 118 of Fig. 8. Layer 118 does not include a hole as claim 1 requires. Therefore, layer 118 is not a “second insulating layer exposing a portion of the third conductive layer” as claim 1 requires.

Furthermore, the Examiner alleges that Wakai discloses “a fourth conductive layer at least a portion of which is on top of and in contact with the second insulating layer and electrically contacting the third conductive layer”. Specifically, the Examiner alleges that reference number 110 of Fig. 8 of Wakai discloses the fourth conductive layer recited in the claim. But claim 1 requires that the fourth conductive layer be “on top of and in contact with the second insulating layer and electrically contacting the third conductive layer”. Wakai does not disclose or suggest this. Even if, assuming *arguendo*, that layer 110 of Wakai corresponds to the fourth conductive layer, Fig. 8 shows quite clearly that no part of layer 110 is both located on top of and in contact with layer 118 or is electrically contacting layer 106a

or layer 107a. Therefore, Wakai does not disclose or suggest at least this feature of the claim either. Accordingly, Applicant respectfully submits that claim 1, and claims 2-10 which depend from claim 1, are allowable over the cited references.

Applicant believe the foregoing amendment and remarks place the application in a condition for allowance and early favorable action is hereby solicited.

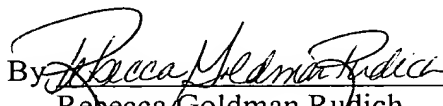
If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: March 29, 2004

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